Mr. M. Sivarama Menon *(Advocate-General):* Even otherwise, the section as it stands now authorises the District Magistrates or any Magistrate specially authorised by the District Magistrate to try such cases.

Mr. A. B. Salem *(Mattancheri):* By the present amendment has the principle of the Judiciary and the Executive being separate, been kept intact.

Amendment put and carried

Bill as amended put and carried

The Cochin Trade Marks Bill

Mr. M. Sivarama Menon *(Advocate-General):* I move that the Cochin Trade Marks Bill be read in Council.

Mr. B. V. K. Menon *(Secretary to Government):* I second it.

Mr. M. Sivarama Menon *(Advocate-General):* The object of this Bill is only to afford better protection to trade marks in general. Even in British India an Act regulating the registration of trade marks was passed only in the year 1940, even though earlier attempts were made there to have a piece of legislation to ensure greater protection for trade marks. But commercial opinion even in British India had not then crystallised and therefore the Government of India had to keep back that legislation for a pretty long time till at last commercial interests themselves began to plead for legislation and it was at their instance that the Trade Marks Act was passed in 1940. We are also falling into line with the law in British India except in regard to one particular. That is, in the Indian Act there is a provision for a central registering agency for textile marks in Bombay. You know, as a matter of fact, that most of the big textile concerns have their branch offices or head offices in Bombay. Therefore, for the purpose of easy reference of textile trade marks a central office has been constituted in Bombay. But in Cochin there are only two or three textile mills. Therefore, we are having our ordinary registry offices for textile trade marks also with no central office for textile marks alone. In all other respects this Bill is on all fours with the law in British India. Now, as a matter of fact, if I have got a trade mark I must prove in a court of law when I want to establish property in that trade mark the fact that I have acquired property in that trade mark by long use. Another man may prove by oral evidence that he began to make use of an identical mark earlier in date. The court has to act upon oral evidence supported by documents, if any. Therefore, there is a great difficulty when there is dispute to prove who put into the market first the particular trade mark. For instance, suppose a person uses an *Arayannam* or a crow or some such mark is his trade mark. Another trader may without the knowledge of this person have been using some sort of similar mark to his goods and it may have obtained some sort of reputation by user. Conflict often arises between these two competitors. When we bring into force here the provisions of this Bill, objections will be invited by the registrar to the Registration of that trade mark, which will be duly notified. Therefore, every person interested will come in. If it in any way infringes anyone's right he can immediately raise his objections and point out that he has been using that particular mark for a longer time than that man who has made the application. It will be for the Registrar to decide that question after hearing objections. If a registration is actually effected there is provision in the Act for the aggrieved party to appeal to the High Court. Therefore, the position is that by inaugurating a system by which trade marks are registered, by legalising it in the way contemplated in this bill, the trade marks will be afforded better protection and that is necessary for the protection of commercial interests. A person who gets a trade mark registered will have a greater sense of security. And it is highly necessary that as far as possible this law should be on all fours with the law obtaining in British India and other places because of the mutual commercial interests between British India and Cochin. My submission to the House is that this House may allow the passage of this Bill as early as possible because these are times when industries are coming up, when persons may try to invest more money which would bring in more profit not only to the State but to the labourers here. It is better at a time like this when industrialisation is looming large that the Bill is not delayed. With these few observations I commend this Bill for the acceptance of this House.

Mr. A. V. Moothedan *(Chalakkudi):* I welcome the proposal of the Government to introduce this Bill. But at the same time I want to know why certain other Bills which are in British India are not brought here, for example, an amendment to the Criminal Procedure Code enabling a prisoner or a detenu in the jail to move the High Court by a petition of *habeas corpus*.

Mr. M. Sivarama Menon *(Advocate-General):* There is already a Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. V. Moothedan *(Chalakkudi):* It is a non-official Bill. Why can't the Government undertake it. If we bring a Bill, it will take one or two years. Even then, Government will oppose.

On this principle that whatever is given in British India should be accepted here, there are certain provisions of law which are very salutory and which are in the British Indian Statute Book, for instance, an amendment of the Criminal Procedure Code enabling a prisoner to move the High Court by an original petition of *habeas corpus, writ of mendamus* and so many other writs.

Mr. Deputy President: Mr. Moothedan, we are now on the Trade Marks Bill.

Mr. A. V. Moothedan *(Chalakkudi):* I am pointing out that the Government is not following a consistent policy. Whereever there is some advantage they will take it. I am impressing upon the Government the urgent necessity of introducing similar legislation in the matter of Criminal Procedure Code and Specific Relief Act.

Mr. K. M. Ibrahim *(Cranganur):* What about the Constitution Act itself? Let us begin with that.

Motion put and carried

Secretary to the Council: The title of the Bill is "The Cochin Trade Marks Bill".

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Hon'ble President may be pleased to suspend S. O. 32.

Mr. Deputy President: The Standing Order is suspended.

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Trade Marks Bill may be taken into consideration.

Mr. I. Madhava Panicker *(Secretary to Government):* I second it.

Motion put and carried

Clauses 2 to 81, Section 1, and Title and Preamble put and carried

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Trade Marks Bill may be kindly taken up and finally passed day after tomorrow.

Mr. B. V. K. Menon *(Secretary to Government):* I second it.

Motion put and carried

The Cochin Registration Act (Amendment) Bill

Mr. I. Madhava Panicker *(Joint Secretary to Government):* Sir, I beg to move that the Cochin Registration Act (Amendment) Bill be read in Council.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is "The Cochin Registration Act (Amendment) Bill".

Mr. I. Madhava Panicker *(Joint Secretary to Government):* I request that the Hon'ble President may be pleased to suspend S. O. No. 32.

Mr. Deputy President: The S. O. is suspended.

Mr. I. Madhava Panicker *(Joint Secretary to Government):* I beg to move that the Bill may be taken into consideration.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

Clauses 2 to 4 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Mr. I. Madhava Panicker *(Joint Secretary to Government):* I beg to move that the Bill may be taken up and finally passed day after tomorrow.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

The Cochin Court fees Act (Amendment) Bill

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I beg to move that the Cochin Court Fees Act (Amendment) Bill be read in Council.

Mr. B. V. K. Menon *(Secretary to Government):* I second it.

Mr. M. Sivarama Menon *(Advocate-General):* After the motion is seconded I feel it my duty to inform the Hon'ble House that this amendment Bill is practically tabled as an anti-inflationery measure. The point is that even before this inflation began, Cochin really stood in need of an increase in the rates of court fees.. You will find, as a matter of fact, that in the

LIBRARY ARCHIVES Kerala Legislative Assembly

40. Rs. 6,280—under 12—1—Forests B8a"
41. Rs. 12— ,, do. B11"
42. Rs. 381— ,, do. B12"
43. Rs. 500— ,, do. B15"
44. Rs. 2,656— ,, do. B16"
45. Rs. 1,400— ,, do. B17"
46. Rs. 1,000— ,, do. B18"

Mr. V. K. Bhaskara Menon said that a very substantial proportion of the timber should be made available for the people of this State and unless this is done, the additional allotment will not be justified.

Mr. Devassy agreed with Mr. Bhaskara Menon.

The items were then passed.

The following items were next discussed and passed.

47. Rs. 1,500—under "13 Registration—(e) T.A. (Ordinary)"
48. Rs. 5— ,, "9-Anchal (a) Establishment"
49. Rs. 440— ,, do. Dearness allowance"
50. Rs. 72— ,, do. Temporary Establishment"
51. Rs. 3— ,, do. Cleaning charges"
52. Rs. 112— ,, do. (f) Miscellaneous"
53. Rs. 800— ,, "20-3-Secondary—Boys—Furniture"
54. Rs. 1,872— ,, "1-Land Revenue (A) Establishment (c) Establishment"
55. Rs. 300— ,, do. (B) Allowance b (2) ordinary T. A."
56. Rs. 405— ,, do. (E) Dearness allowance D. Contingencies"
57. Rs. 550— ,, do. (a) Purchase of furniture"
58. Rs. 14— ,, do. (c) Cleaning charges"
59. Rs. 150— ,, do. (d) Rent"
60. Rs. 100— ,, do. (g) Service labels"
61. Rs. 14— ,, do. (b) Office expenses (lighting)"
62. Rs. 50— ,, do. (i) Miscellaneous"
63. Rs. 100— ,, do. (m) Printing"
64. Rs. 300— ,, do. D. Purchase of books"
65. Rs. 150— ,, "17-A-Law and Justice—Temporary establishment"
66. Rs. 60— ,, do. Office expenses"
67. Rs. 700— ,, "14-Anchal (d) Anchal Masters, etc."
68. Rs. 720— ,, do. (e) Temporary"
69. Rs. 12,934— ,, do. (e) Dearness allowance"
70. Rs. 12— ,, do. Water allowance"
71. Rs. 367— ,, do. (f) T. A."
72. Rs. 636— ,, do. (t) Office expenses"
73. Rs. 2,767— ,, "1-Land Revenue—Temporary establishment"
74. Rs. 12,490— ,, "39-Miscellaneous—Excise—Price Control"
75. Rs. 1,500— ,, "Land Revenue—Refund of Revenue"

The Committee rose at 4-15 p.m.

N. S. RADHAKRISHNA SARMA
Secretary to the Council

APPENDIX V

THE COCHIN TRADE MARKS ACT

WHEREAS it is expedient to provide for the registration and more effective protection of trade marks; It is hereby enacted as follows.—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Cochin Trade Marks Act, XIX of 1119.

(2) It extends to the whole Cochin State.

LIBRARY ARCHIVES Kerala Legislative Assembly

(3) This section and section 81 shall come into force at once ; the remaining provisions of the Act shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint in this behalf.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "associated trade marks" means trade marks deemed to be, or required to be registered as, associated trade marks under this Act ;

(*b*) "certification trade mark" means a mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified and registrable as such under the provisions of Chapter VIII in respect of those goods in the name, as proprietor of the certification trade mark, of that person ;

(*c*) "District Court" has the meaning assigned to it in the Cochin Code of Civil Procedure; XXIX of 1111 ;

(*d*) "limitations" (with its grammatical variations) means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in within Cochin State, or as to use in relation to goods to be exported to any market outside Cochin State ;

(*e*) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, or numeral or any combination thereof ;

LIBRARY ARCHIVES Kerala Legislative Assembly

(*f*) "permitted use" means the use of a trade mark by a registered user thereof in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered user, being use such as to comply with any conditions or restrictions to which his registration is subject;

(*g*) "prescribed" means prescribed by rules made, in relation to proceedings before the High Court, by the High Court, and in other cases, by Government;

(*h*) "registered" (with its grammatical variations) means registered under this Act;

(*i*) "registered trade mark" means a trade mark which is actually on the register;

(*j*) "registered user" means a person who is for the time being registered as such under section 41.

(*k*) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person;

(*l*) "transmission" means transmission by operation of law, devolution on the personal representative of a deceased person and any other mode of transfer, not being assignment;

(*m*) "tribunal" means the Registrar or, as the case may be, the Court before which the proceeding concerned is pending.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) References in this Act to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references herein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in any other relation whatsoever to, such goods.

Application of other laws not barred.

3. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

CHAPTER II

THE REGISTER AND CONDITIONS FOR REGISTRATION

The register of trade marks.

4. (1) For the purposes of this Act there shall be established at the Patent Office a Trade Mark Registry, and a record called the Register of Trade Marks (in this Act referred to as the register) shall be kept thereat wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of registered users, disclaimers, conditions, limitations, and such other matters relating to registered trade marks as may be prescribed, but there shall not be entered in the register any notice of any trust express, implied or constructive, nor shall any such notice be receivable by the Registrar.

(2) Subject to the superintendence and direction of Government, the register shall be kept under the control and management of the Controller of Patents and Designs, who shall for the proposes of this Act be called the Registrar of Trade Marks and is in this Act referred to as the Registrar.

(3) The register shall at all convenient times be open to the inspection of the public, subject to such conditions and restrictions as may be prescribed.

Registration to be in respect of particular goods.

5. (1) A trade mark may be registered only in respect of particular goods or classes of goods.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) Any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision in the matter shall be final.

Distinctiveness requisite for registration.

6. (1) A trade mark shall not be registered unless it contains or consists of at least one of the following essential particulars, namely:—

(*a*) the name of a company, individual, or firm, represented in a special or particular manner;

(*b*) the signature of the applicant for registration or some predecessor in his business;

(*c*) one or more invented words;

(*d*) one or more words having no direct reference to the character or quality of the goods, and not being, according to its ordinary signification, a geographical name or surname or the name of a sect, caste or tribe in India;

(*e*) any other distinctive mark, provided that a name, signature, or any word, other than such as fall within the descriptions in the above clauses, shall not be registrable except upon evidence of its distinctiveness.

(2) For the purposes of this section, the expression "distinctive" means adapted, in relation to the goods in respect of which a trade mark is proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid, the tribunal may have regard to the extent to which—

(*a*) the trade mark is inherently so adapted to distinguish, and

LIBRARY ARCHIVES Kerala Legislative Assembly

(*b*) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact so adapted to distinguish:

Provided that in the case of a trade mark which has been continuously used (either by the applicant for registration or by some predecessor in his business, and either in its original form or with additions or alterations not substantially affecting its identity) in relation to the same goods as those in relation to which registration is applied for, during a period from a date prior to the 1st day of Chingam 1114, to the date of application for registration, the Registrar shall not refuse registration by reason only of the fact that the trade mark is not adapted to distinguish as aforesaid, and may accept evidence of acquired distinctiveness as entitling the trade mark to registration.

Limitation as to colour.

7. (1) A trade mark may by limited wholly or in part to one or more specified colours, and any such limitation shall be taken into consideration by any tribunal having to decide on the distinctive character of the trade mark.

(2) So far as a trade mark is registered without limitation of colour it shall be deemed to be registered for all colours.

Prohibition of registration of certin matter.

8. No trade mark nor part of a trade mark shall be registered which consists of, or contains, any scandalous design, or any matter the use of which would—

(*a*) by reason of its being likely to deceive or to cause confusion or otherwise, be disentitled to protection in a Court of justice; or

(*b*) be likely to hurt the religious susceptibilities of any class of His Highness the Maharaja's subjects; or

(*c*) be contrary to any law for the time being in force or to morality.

Use of names of chemical elements barred.

9. No word which is the commonly used and accepted name of any single chemical element or single chemical compound (as distinguished from a mixture) shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration shall, notwithstanding anything in section 24, be deemed for the purposes of section 46 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require:

Provided that this section shall not apply to a word which is used to denote only a brand or make of the

LIBRARY ARCHIVES Kerala Legislative Assembly

element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

Prohibition of registration of identical or similar trade mark.

10. (1) Save as provided in sub-section (2), no trade mark shall be registered in respect of any goods or description of goods which is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or descriptian of goods, or which so nearly resembles such trade mark as to be likely to deceive or cause confusion.

(2) In case of honest concurrent use or of other special circumstances which, in the opinion of the Registrar, make it proper so to do he may permit the registration by more than one proprietor of trade marks which are identical or nearly resemble each other in respect of the same goods or description of goods, subject to such conditions and limitations, if any, as the Registrar may think fit to impose.

(3) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks which are identical or nearly resemble each other, in respect of the same goods or description of goods, the Registrar may refuse to register any of them until their rights have been determined by a competent Court.

Registration of parts of trade marks and of trade marks as a series.

11. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and the part as separate trade marks.

(2) Each such separate trade mark shall satisfy all the conditions applying to, and have all the incidents of, an independent trade mark.

(3) Where a person claiming to be the proprietor of several trade marks in respect of the same goods or description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

(*a*) statements of the goods in relation to which they are respectively used or proposed to be used; or

(*b*) statements of number, price, quality, or names of places; or

LIBRARY ARCHIVES Kerala Legislative Assembly

(c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or

(d) colour;

seeks to register those trade marks, they may be registered as a series in one registration.

Associated trade marks.

12. (1) Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark which is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.

(2) Where a trade mark and any part thereof are, in accordance with the provisions of sub-section (1) of section 11, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(3) All trade marks registered in accordance with the provisions of sub-section (3) of section 11 as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by any other person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

Registration subject to disclaimer.

13. If a trade mark contains—

(a) any part not separately registered as a trade mark in the name of the proprietor, or for the separate registration of which no application has been made, or

LIBRARY ARCHIVES Kerala Legislative Assembly

(*b*) any matter common to the trade, or otherwise of a non-distinctive character,

the tribunal, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register, that the proprietor shall either disclaim any right to the exclusive use of such part or of all or any portion of such matter, as the case may be, to the exclusive use of which the tribunal holds him not to be entitled, or make such other disclaimer as the tribunal may consider necessary for the purpose of defining the rights of the proprietor under the registration:

Provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

CHAPTER III

PROCEDURE FOR, AND DURATION OF REGISTRATION

Application for registration.

14. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it shall apply in writing to the Registrar in the prescribed manner, and subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit.

(2) In the case of a refusal or conditional acceptance the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat.

(3) The tribunal may, at any time, whether before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as it may think fit.

Opposition to registration.

15. (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted, together with the conditions and limitations, if any, subject to which it has been accepted, to be advertised in the prescribed manner:

Provided that the Registrar may cause an application to be advertised before acceptance if it relates to a trade mark to which

LIBRARY ARCHIVES Kerala Legislative Assembly

clause (*e*) of sub-section (1) of section 6 applies, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised the Registrar may, if he thinks fit, advertise it again when it has been accepted, but shall not be bound so to do.

(2) Any person may, within the prescribed time from the date of the advertisement of an application, give notice in writing in the prescribed manner to the Registrar of opposition to the registration.

(3) The Registrar shall serve in the prescribed manner a copy of the notice on the applicant, and within the prescribed time the applicant shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

(4) If the applicant sends such counter-statement, the Registrar shall serve in the prescribed manner a copy thereof on the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(5) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice, or an appellant against any order of the Registrar under section 14 or this section, neither resides nor carries on business in Cochin State, the tribunal may require him to give security for costs of the proceedings before it, and in default of such security being duly given may treat the opposition or application or appeal, as the case may be, as abandoned.

Registration.

16. (1) When an application for registration of a trade mark has been accepted and either has not been opposed and the time for notice of opposition has expired, or having been opposed, has been decided in favour of the applicant, the Registrar shall, unless the application has been accepted in error, or unless Government otherwise direct, register the said trade mark, and the trade mark, when registered, shall be registered as of the

LIBRARY ARCHIVES Kerala Legislative Assembly

date of the making of the said application, and that date shall, subject to any directions made under section 79 applicable to such trade mark, be deemed for the purposes of this Act to be the date of registration.

(2) On the registration of a trade mark the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Patent Office.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

Jointly owned trade marks.

17. (1) Save as provided in sub-section (2), nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

(2) Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

(*a*) on behalf of both or all of them, or

(*b*) in relation to an article with which both or all of them are connected in the course of trade,

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

Duration and renewal of registration.

18. (1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of the trade mark for a period of fifteen years from the date of expiration of the original

LIBRARY ARCHIVES Kerala Legislative Assembly

registration or of the last renewal of registration, as the case may be (which date is in this section referred to as "the expiration of the last registration").

(3) At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register, subject to such conditions (if any) as to its restoration to the register as may be prescribed.

Effect of removal from register for failure to pay fee for renewal.

19. Where a trade mark has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another trade mark during one year next after the date of the removal, be deemed to be a trade mark already on the register, unless the tribunal is satisfied either—

(*a*) that there has been no *bona fide* trade use of the trade mark which has been removed during the two years immediately preceding its removal; or

(*b*) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any previous use of the trade mark which has been removed.

CHAPTER IV

EFFECT OF REGISTRATION

No action for infringement of unregistered trade mark.

20. (1) No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark unless such trade mark has been continuously in use since before the 1st day of Chingam, 1114, by such person or by a predecessor in title of his and unless an application for its registration, made within five years from the commencement of this Act, has been refused; and the Registrar shall, on application in the prescribed manner, grant a certificate that such application has been refused.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) Nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

Right conferred by registration.

21. Subject to the provisions of sections 22, 25 and 26, the registration of a person in the register as proprietor of a trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing provision, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(*a*) as being use as a trade mark; or

(*b*) to import a reference to some person having the right either as a proprietor or as registered user to use the trade mark or to goods with which such a person as aforesaid is connected in the course of trade.

No infringement in certain circumstances.

22. (1) The right to the use of a trade mark given under section 21 by registration shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in, in any place, or in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations the registration does not extend.

(2) The said right to the use of a trade mark shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

(*a*) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any

LIBRARY ARCHIVES Kerala Legislative Assembly

time expressly or impliedly consented to the use of the trade mark; or

(*b*) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods.

(3) The use of a registered trade mark, being one of two or more registered trade marks which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as aforesaid, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

Registration to be *prima facie* evidence of validity.

23. In all legal proceedings relating to a registered trade mark, the fact that a person is registered as proprietor thereof shall be *prima facie* evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Registration to be conclusive as to validity after seven years.

24. In all legal proceedings relating to a registered trade mark, the original registration of the trade mark shall after the expiration of seven years from the date of such original registration be taken to be valid in all respects unless such registration was obtained by fraud, or unless the trade mark offends against the provisions of section 8.

Saving for vested rights.

25. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior—

(*a*) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his, or

LIBRARY ARCHIVES Kerala Legislative Assembly

(*b*) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his,

whichever is the earlier, or to object (on such use being proved) to registration of that identical or nearly resembling trade mark in respect of those goods under sub-section (2) of section 10.

Saving for use of name, address, or description of goods.

26. No registration of a trade mark shall interfere with any *bona fide* use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business, or the use by any person of any *bona fide* description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in clause (*b*) of section 21 or in clause (*b*) of section 57.

Words used as name or description of an article or substance.

27. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use after the date of the registration of any words which the trade mark contains or of which it consists as the name or description of an article or substance:

Provided that, if it is proved either—

(*a*) that there is a well-known and established use of the said words as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trademark or (in the case of a certification trade mark) goods certified by the proprietor; or

(*b*) that the article or substance has been manufactured under a patent in force at or granted after the commencement of this section, that a period of two years or more after the cesser of the patent has elapsed, and that the said words are the only practicable name or description of the article or substance,—

the provisions of sub-section (2) shall apply.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) Where the facts mentioned in clause (*a*) or clause (*b*) of the proviso to sub-section (1) are proved with respect to any words, then—

(*a*) for the purposes of any proceedings under section 46—

(*i*) if the trade mark consists solely of such words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed to be an entry wrongly remaining on the register;

(*ii*) if the trade mark contains such words and other matter, the tribunal, in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article or substance and any goods of the same description, of such words, provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade

LIBRARY ARCHIVES Kerala Legislative Assembly

mark in respect of which the disclaimer is made;

(*b*) for the purposes of any other legal proceedings relating to the trade mark,—

(*i*) if the trade mark consists solely of such words, all rights of the proprietor under this Act or any other law to the exclusive use of the trade mark in relation to the article or substance in question or to any goods of the same description, or

(*ii*) if the trade mark contains such words and other matter, all such rights of the proprietor to the exclusive use of such words, in such relation as aforesaid,

shall be deemed to have ceased on the date at which the use mentioned in clause (*a*) of the proviso to sub-section (1) first became well-known and established, or at the expiration of the period of two years mentioned in clause (*b*) of the said proviso.

CHAPTER V

ASSIGNMENT AND TRANSMISSION

Power of registered proprietor to assign and give receipts

28. The person for the time being entered in the register as proprietor of a trade mark shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for such assignment.

Assignability of registered trade marks.

29. Notwithstanding anything in any other law to the contrary, a registered trade mark shall, subject to the provisions of this Chapter, be assignable and transmissible whether in connection with the goodwill of a business or not, and in respect either of all of the goods in respect of which it is registered or of some only of those goods.

LIBRARY ARCHIVES Kerala Legislative Assembly

Assignability of unregistered trade marks.

30. An unregistered trade mark shall be assignable and transmissible whether in connection with the goodwill of a business or not:

Provided that, except in connection with the goodwill of a business, assignment or transmission shall be permissible only if—

(*a*) at the time of assignment or transmission of the unregistered trade mark it is used in the same business as a registered trade mark, and

(*b*) the registered trade mark is assigned or transmitted at the same time and to the same person as the unregistered trade mark, and

(*c*) the unregistered trade mark relates to goods in respect of which the registered trade mark is assigned or transmitted.

Restrictions on assignment or transmission where multiple exclusive rights would be created.

31. (1) Notwithstanding anything in sections 29 and 30, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be likely to deceive or cause confusion:

Provided that an assignment or transmission shall not be deemed to be invalid under this subsection if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within Cochin State (otherwise than for export therefrom), or in relation to goods to be exported to the same market outside Cochin State.

(2) The proprietor of a registered trade mark who proposes to assign it may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances

LIBRARY ARCHIVES Kerala Legislative Assembly

and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment would or would not be invalid under sub-section (1), and a certificate so issued shall, subject to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under sub-section (1) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section 35 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

Restrictions on assignment or transmission when exclusive rights would be created in different parts of Cochin State.

32. Notwithstanding anything in sections 29 and 30, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist whether under this Act or any other law an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in any place in Cochin State and an exclusive right in another of these persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in any other place in Cochin State:

Provided that in any such case, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or by a person who claims that a registered trade mark has been transmitted to him or to a predecessor in title of his since the commencement of this Act, the Registrar, if he is satisfied that in all the circumstances the use of the trade mark in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not, unless it is shown that the approval was obtained by fraud or misrepresentation, be deemed to be invalid under this section or section 31 if application for the registration under section 35 of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

LIBRARY ARCHIVES Kerala Legislative Assembly

Conditions for assignment otherwise than in connection with the good-will of a business.

33. Where an assignment in respect of any goods of a trade mark which is at the time of the assignment used in a business in those goods, is made after the commencement of this Act otherwise than in connection with the good-will of that business, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Registrar may allow, applies to the Registrar for directions with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

Conditions for assignment and transmission of certification trade marks and associated trade marks.

34. (1) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of Government, for which application shall be made in writing in the prescribed manner through the Registrar.

(2) Associated trade marks shall be assignable and transmissible only as a whole and not separately.

Registration of assignments and transmissions.

35. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.

(2) Except for the purposes of an appeal against a decision of the Registrar under sub-section (1) or of an application under section 46, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1) shall not be admitted in evidence before a tribunal in proof of the title to a trade mark unless the tribunal otherwise directs.

CHAPTER VI

USE OF TRADE MARKS AND REGISTERED USERS.

Proposed use of trade mark by company to be formed.

36. (1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it

LIBRARY ARCHIVES Kerala Legislative Assembly

appears that the applicant does not use or propose to use the trade mark, if the Registrar is satisfied that a company is about to be formed and registered under the Indian Companies Act, 1913, as made applicable to Cochin and that the applicant intends to assign the trade mark to that company with a view to the use thereof in relation to those goods by the company.

(2) The tribunal may, in a case to which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.

(3) Where in a case to which sub-section (1) applies, a trade mark in respect of any goods is registered in the name of an applicant who relies on intention to assign to a company, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may, on application being made to him in the prescribed manner, allow, the company has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

Removal from register and imposition of limitations on ground of non-use.

37. (1) Subject to the provisions of section 38, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, on the ground either—

(*a*) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him or, in a case to which the provisions of section 36 apply, by the company concerned, and that there has in fact been no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for the time

LIBRARY ARCHIVES Kerala Legislative Assembly

being up to a date one month before the date of the application; or

(*b*) that to a date one month before the date of the application, a continuous period of five years or longer elapsed during which the trade mark was registered and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being:

Provided that, except where the applicant has been permitted under sub-section (2) of section 10 to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark, the tribunal may refuse an application made under clause (*a*) or clause (*b*) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a trade mark is registered—

(*a*) the circumstances referred to in clause (*b*) of sub-section (1) are shown to exist so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in a particular place in Cochin State (otherwise than for export from Cochin State), or in relation to goods to be exported to a particular market outside Cochin State, and

(*b*) a person has been permitted under sub-section (2) of section 10 to

LIBRARY ARCHIVES Kerala Legislative Assembly

register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark,

on application by that person in the prescribed manner to the High Court or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

(3) An applicant shall not be entitled to rely for the purpose of clause (*b*) of sub-section (1) or of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade and not to any intention to abandon or not to use the trade mark in relation to the goods to which the application relates.

Defensive registration of well-known trade marks.

38. (1) Where a trade mark consisting of any invented word has become so well-known as respects any goods in relation to which it is registered and has been used, that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods and notwithstanding anything in section 37, the trade mark may on application in the prescribed manner by such proprietor be registered in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those goods under the said section:

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks.

(4) On application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of sub-section (1) are no longer satisfied in respect of any goods in relation to which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in relation to which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in sub-section (1).

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases:

LIBRARY ARCHIVES Kerala Legislative Assembly

Registered users.

39. (1) A person other than the proprietor of a trade mark may be registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for any purpose for which such use is material under this Act or any other law.

Power of registered user to take proceedings against infringement.

40. (1) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and if the proprietor refuses or neglects to do so within three months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant.

(2) Notwithstanding anything contained in any other law, a proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Application for registration as registered user.

41. (1) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user shall make application in writing to the Registrar in the prescribed manner accompanied by an affidavit made by the proprietor, or by some person authorised to the satisfaction of the Registrar to act on his behalf,—

(*a*) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship willconfer and whether it is a term of their relationship that the proposed

LIBRARY ARCHIVES Kerala Legislative Assembly

registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

(*b*) stating the goods in respect of which registration is proposed;

(*c*) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter;

(*d*) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof;

and by such further documents, information or evidence as may be required by the Registrar or as may be prescribed.

(2) When the requirements of sub-section (1) have been complied with, if the Registrar is satisfied that in all the circumstances the use of the trade mark in respect of the proposed goods or any of them by the proposed registered user subject to any conditions or restrictions which the Registrar may think proper, would not be contrary to the public interest, the Registrar may register, subject as aforesaid, the proposed registered user as a registered user in respect of the goods as to which he is so satisfied.

(3) The Registrar shall refuse an application under this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(4) The Registrar shall, if so requested by an applicant, take steps for securing that information given for the purposes of an application under this section (other than matter entered in the register) is not disclosed to rivals in trade.

(5) The Registrar shall issue notice in the prescribed manner—

(*a*) of the registration of a person as a registered user, to any other

LIBRARY ARCHIVES Kerala Legislative Assembly

registered user of the trade mark;

(*b*) of an application under section 42, to the registered proprietor, and each registered user (not being the applicant) of the trade mark.

Power to Registrar to vary or cancel registration as registered user.

42. Without prejudice to the provisions of section 46, the registration of a person as a registered user—

(*a*) may be varied by the Registrar as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark;

(*b*) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark;

(*c*) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, namely.—

(*i*) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause or to be likely to cause, deception or confusion;

(*ii*) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration;

(*iii*) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested;

(*d*) may be cancelled by the Registrar in respect of any goods in relation to which the trade mark is no longer registered.

Registered user not to have right of assignment or transmission.

43. Nothing in this Act shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

LIBRARY ARCHIVES Kerala Legislative Assembly

Use of one of associated or substantially identical trade marks equivalent to use of another.

44. (1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as it shall think right, accept use of a registered associated trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any trade mark being a part thereof and registered in accordance with sub-section (1) of section 11 in the name of the same proprietor.

Use of trade mark for export trade, and use when form of trade connection changes.

45. (1) The application in Cochin State of a trade mark to goods to be exported from Cochin State, and any other act done in Cochin State in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within Cochin State would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or any other law.

(2) The use of a registered trade mark in relation to goods between which and the person using the mark any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the mark has been or is used in relation to goods between which and the person using the mark or any predecessor in his business different form of connection in the course of trade subsisted or subsists.

CHAPTER VII

RECTIFICATION AND CORRECTION OF THE REGISTER

Power to cancel or vary registration and to rectify the register.

46. (1) On application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, the tribunal may make such order as it may think fit for cancelling or varying the registration of a trade mark on the ground of any contravention of, or failure to observe a condition entered on the register in relation thereto.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the High Court or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

(3) The tribunal may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(4) The High Court or the Registrar, of its or his own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).

(5) Any order of the Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

Correction of register.

47. (1) The Registrar may, on application made in the prescribed manner by the registered proprietor,—

(*a*) correct any error in the name, address or description of the registered proprietor of a trade mark;

(*b*) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;

(*c*) cancel the entry of a trade mark on the register;

(*d*) strike out any goods or classes of goods from those in respect of which a trade mark is registered;

(*e*) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) The Registrar may, on application made in the prescribed manner by a registered user of a trade mark, correct any error, or enter any change, in the name, address or description of the registered user.

Alteration of registered trade mark.

48. (1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

(2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Where leave is granted under this section, the trade mark as altered shall be advertised in the prescribed manner, unless the application has already been advertised under sub-section (2).

Adaptation of entries in register to amended or substituted classification of goods.

49. (1) The Registrar shall not, in exercise of any power conferred on him under clause (*a*) of sub-section (2) of section 80, make any amendment of the register which would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made or of antedating the registration of a trade mark in respect of any goods:

Provided that this sub-section shall not apply when the Registrar is satisfied that compliance therewith would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

LIBRARY ARCHIVES Kerala Legislative Assembly

(2) A proposal so to amend the register shall be notified to the registered proprietor of the trade mark affected and advertised in the prescribed manner, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of sub-section (1).

CHAPTER VIII

CERTIFICATION TRADE MARKS

Provisions of this Act applicable to certification trade marks.

50. Subject to the provisions of this Chapter, the other provisions of this Act except sections 6, 21, 22, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, and 43 and sub-section (2) of section 45 shall apply to certification trade marks as they apply to trade marks.

Certification trade mark not to be registered in name of person trading in goods certified thereby.

51. A mark shall not be registrable as a certification trade mark in the name of a person who carries on a trade in goods of the kind certified.

Determination whether a mark is a certification trade mark.

52. In determining whether a mark is adapted to distinguish in accordance with the provisions of clause (*b*) of sub-section (1) of section 2, the tribunal may have regard to the extent to which—

(*a*) the mark is inherently so adapted to distinguish in relation to the goods in question; and

(*b*) by reason of the use of the mark or of any other circumstances, the mark is in fact so adapted to distinguish in relation to the goods in question.

Application for registration.

53. (1) An application for the registration of a mark as a certification trade mark shall be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof, and accompanied by a draft of the regulations to be deposited under section 56.

(2) The provisions of section 14 shall have effect in relation to an application under this section as they have effect in relation to an application under the said section, except that for references therein to acceptance of an application

LIBRARY ARCHIVES Kerala Legislative Assembly

there shall be substituted references to authorisation to proceed with the application.

(3) In dealing under the said provisions with an application under this section, the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 14 and to any other considerations (not being matters within the competence of Government under section 54) relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is a certification trade mark.

Consideration of application for Registration by Government.

54. When authorisation to proceed with an application under section 53 has been given, the Registrar shall forward the application to Government who shall consider the application with regard to the following matters, namely.—

(*a*) whether the applicant is competent to certify the goods in respect of which the mark is to be registered ;

(*b*) whether the draft of the regulations to be deposited under section 56 is satisfactory ;

(*c*) whether in all the circumstances the registration applied for would be to the public advantage ;

and may either—

(*i*) direct that the application shall not be accepted ; or

(*ii*) direct the Registrar to accept the application and approve the said draft of the regulations either without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modification of the application or of the regulations, which it thinks requisite having regard to any of the said matters ;

but, except in the case of a direction for acceptance and approval without modification and unconditionally, Government shall not decide the matter without giving to the applicant an opportunity of being heard :

Provided that Government may, at the request of the applicant made with the concurrence of the Registrar,

LIBRARY ARCHIVES Kerala Legislative Assembly

consider the application with regard to any of the said matters before authorisation to proceed with the application has been given, so however that Government shall be at liberty to reconsider any matter on which it has given a decision under this proviso if any amendment or modification is thereafter made in the application or in the draft of the regulations.

Opposition to registration.

55. (1) When an application has been accepted, the Registrar shall, as soon as may be thereafter, cause the application as accepted to be advertised in the prescribed manner, and the provisions of section 15 shall have effect in relation to the registration of the mark as if the application had been an application under section 14:

Provided that, in deciding under the said provisions the tribunal shall have regard only to the considerations referred to in sub-section (3) of section 53, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by Government under sub-section (2) of this section of any opposition relating to any of the matters referred to in section 54.

(2) When notice of opposition is given relating to any of the matters referred to in section 54, Government shall, after hearing the parties, if so required, and considering any evidence, decide whether and subject to what conditions or limitations, or amendments or modifications, if any, of the application or of the regulations to be deposited under section 56, registration is, having regard to those matters, to be permitted.

Deposit of regulations governing the use of a certification trade mark.

56. (1) There shall be deposited at the Patent Office in respect of every mark registered as a certification trade mark regulations approved by Government for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the certification trade mark, and may contain any other provisions which Government may by general or special order require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to

LIBRARY ARCHIVES Kerala Legislative Assembly

certify goods or to authorise the use of the certification trade mark in accordance with the regulations); and regulations so deposited shall be open to inspection in like manner as the register.

(2) The regulations so deposited may on the application of the registered proprietor be altered by the Registrar with the consent of Government.

(3) Government may cause such application to be advertised in any case where it appears to it expedient so to do, and where it does so, if within the time specified in the advertisement any person gives notice of opposition to the application, Government shall not decide the matter without giving the parties an opportunity of being heard.

Right conferred by registration.

57. Subject to the provisions of sections 25, 26 and 58, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the certification trade mark in relation to those goods, and, without prejudice to the generality of the foregoing provision, that right shall be deemed to be infringed by any person who, not being the proprietor of the mark or a person authorised by him in that behalf under the regulations deposited under section 56, using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(*a*) as being use as a certification trade mark; or

(*b*) to import a reference to some person having the right either as proprietor, or by his authorisation under the said regulations, to use the mark, or to goods certified by the proprietor.

No infringement in certain circumstances.

58. (1) The right to the use of a certification trade mark given under section 57 by registration shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which having regard

LIBRARY ARCHIVES Kerala Legislative Assembly

to any such limitations, the registration does not extend.

(2) The said right to the use of a certification trade mark shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

(*a*) in relation to goods certified by the proprietor of the mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the mark, or

(*b*) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor:

Provided that clause (*a*) shall not apply to the case of use consisting of the application of any such mark as aforesaid to any goods, notwithstanding that they are such goods as are mentioned in that clause if such application is contrary to the said regulations.

(3) Where a certification trade mark is one of two or more registered certification trade marks which are identical or nearly resemble each other, the use of any of those marks in exercise of the right to the use of that mark given by registration, shall not be deemed

LIBRARY ARCHIVES Kerala Legislative Assembly

to be an infringement of the right so given to the use of any other of those marks.

Cancellation or varying of registration.

59. (1) Government may, on the application in the prescribed manner of any person aggrieved or on the recommendation of the Registrar, and after giving the proprietor an opportunity of opposing the application or recommendation, make such order as it thinks fit for expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on any of the following grounds, namely.—

(*a*) that the proprietor is no longer competent, in the case of any of the goods in respect of which the mark is registered, to certify those goods;

(*b*) that the proprietor has failed to observe any provision of the deposited regulations to be observed on his part;

(*c*) that it is no longer to the public advantage that the mark should be registered;

(*d*) that it is requisite for the public advantage that, if the mark remains registered, the regulations should be varied;

and neither the High Court nor the Registrar shall have any jurisdiction to make an order under section 46 on any of those grounds.

(2) The Registrar shall rectify the register and the deposited regulations in such manner as may be requisite for giving effect to an order made under sub-section (1).

Costs not to be awarded in certain cases.

60. The Registrar shall have no power to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the mark.

Decisions of Government to be final.

61. Save as otherwise expressly provided in this Chapter, every decision of Government under this Chapter shall be final.

LIBRARY ARCHIVES Kerala Legislative Assembly

CHAPTER IX

SPECIAL PROVISION FOR TEXTILE GOODS

Restrictions on registration of piece goods.

62. In respect of textile goods being piece goods—

(*a*) no mark consisting of a line heading alone shall be registrable as a trade mark;

(*b*) a line heading shall not be deemed to be adapted to distinguish;

(*c*) the registration of a trade mark shall not give any exclusive right to the use of a line heading;

(*d*) the registration of letters or numerals, or any combination thereof, shall be subject to such conditions and restrictions as may be prescribed.

CHAPTER X

OFFENCES AND RESTRAINT OF USE OF ROYAL ARMS AND STATE EMBLEMS

Penalty for falsification of entries in register.

63. If any person makes, or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Penalty for falsely representing a trade mark as registered.

64. (1) From such date, not being earlier than one year from the commencement of this Act, as Government may, by notification in the Cochin Government Gazette, appoint in this behalf, no person shall make any representation—

(*a*) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or

(*b*) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is separately registered as a trade mark; or

(*c*) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not in fact registered; or

(*d*) to the effect that the registration of a trade mark gives an exclusive

LIBRARY ARCHIVES Kerala Legislative Assembly

right to the use thereof in any circumstances in which, having regard to limitations entered in the register, the registration does not in fact give that right.

(2) If any person contravenes any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(3) For the purposes of this section, the use in Cochin State in relation to a trade mark of the word "registered", or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

(*a*) where that word or other expression is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside Cochin State, being a country under the law of which the registration referred to is in fact in force; or

(*b*) where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (*a*); or

(*c*) where that word is used in relation to a mark registered as a trade mark under the law of a country outside Cochin State and in relation solely to goods to be exported to that country.

Restraint of use of Royal Arms and State emblems.

65. If a person, without due authority, uses in connection with any trade, business, calling or profession—

(*a*) the Cochin Coat of Arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Cochin Coat of Arms, or

LIBRARY ARCHIVES Kerala Legislative Assembly

(*b*) the Royal Arms of His Majesty the King Emperor of India (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Royal Arms, or

(*c*) any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by, or supplies goods to, or is connected with, the Government of Travancore or the Government of His Majesty the King Emperor of India or the Government of India or any Provincial Government or any department of any such Government,

he may, at the suit of any person who is authorised to use such Arms or such device, emblem or title, or of the Registrar, be restrained by injunction from continuing so to use the same.

CHAPTER XI

MISCELLANEOUS

Procedure before the Registrar.

66. In all proceedings under this Act before the Registrar—

(*a*) the Registrar shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;

(*b*) evidence shall be given by affidavit, provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to such evidence by affidavit;

(*c*) the Registrar shall not exercise any power vested in him by this Act or the rules made thereunder adversely to any party duly appearing before him without (if required in writing within the prescribed time so to do) giving such party an opportunity of being heard;

(*d*) the Registrar may, save as otherwise expressly provided in this Act, and subject to any rules made in this behalf under section 80 make such orders as to costs as he considers

LIBRARY ARCHIVES Kerala Legislative Assembly

reasonable, and any such order shall be executable as a decree of a Civil Court.

Procedure Before Government.

67. In all proceedings under this Act before Government, evidence shall be given by affidavit, provided that Government may, if they think fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit, and shall for that purpose have all the powers of a Civil Court referred to in clause (*a*) of section 66.

Procedure in certain cases of option to apply to High Court or the Registrar.

68. Where under this Act an applicant has the option of making an application either to the High Court or to the Registrar,—

(*a*) if any suit or other proceedings concerning the trade mark in question is pending before the High Court or a District Court, the application shall be made to the High Court;

(*b*) if in any other case the application is made to the Registrar, the Registrar may, if he thinks fit, refer the application at any stage of the proceedings to the High Court.

Suits for infringement to be instituted before District Court.

69. No suit for the infringement of a trade mark or otherwise relating to any right in a trade mark shall be instituted in any Court inferior to a District Court having jurisdiction to try the suit.

Appearance of Registrar in proceedings involving rectification of register.

70. (1) In any suit or other legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the tribunal.

(2) Unless the tribunal otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue, or of the grounds of any decision given by him affecting it, or of the practice of the Patent Office in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the suit or other proceeding.

(3) The costs of the Registrar shall be in the discretion of the tribunal, but the Registrar shall not be ordered to pay the costs of any of the parties.

LIBRARY ARCHIVES Kerala Legislative Assembly

71. (1) A printed or written copy of any entry in the register, purporting to be certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence in all Courts in Cochin State and in all proceedings without further proof of production of the original. **Evidence of entries in register and things done by Registrar.**

(2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, or of the matter or thing having been done or not done.

72. (1) Save as otherwise expressly provided in this Act, an appeal shall lie, within the period prescribed by Government, from any decision of the Registrar under this Act or the rules made thereunder to the High Court: **Appeals.**

Provided that if any suit or other proceeding concerning the trade mark in question is pending before the High Court or a District Court, the appeal shall be made to the High Court.

(2) In an appeal by an applicant for registration against a decision of the Registrar under section 13 or section 14 or section 15, it shall not be open, save with the express permission of the Court, to the Registrar or any party opposing the appeal to advance grounds other than those recorded in the said decision or advanced by the party in the proceedings before the Registrar, as the case may be; and where any such additional grounds are advanced, the applicant for registration may on giving notice in the prescribed manner, withdraw his application without being liable to pay the costs of the Registrar or the parties opposing his application.

(3) Subject to the provisions of this Act and of rules made thereunder, the provisions of the Cochin Code of Civil Procedure, XXIX of 1111, shall apply to appeals before the High Court under this Act.

73. The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it. **Power to High Court to make rules.**

LIBRARY ARCHIVES Kerala Legislative Assembly

Certificate of validity.

74. If in any legal proceeding in which the validity of the registration of a trade mark comes into question, a decision is given in favour of the proprietor of the trade mark, the tribunal may grant a certificate to that effect, and if such a certificate is granted, then in any subsequent legal proceeding in which the said validity comes into question, the said proprietor on obtaining a final order or judgment in his favour shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full costs, charges and expenses as between legal practitioner and client.

Trade usage, etc., to be taken into consideration.

75. In any suit or other proceeding relating to a trade mark, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or get up legitimately used by other persons.

Agents.

76. Where by or under this Act any act, other than the making of an affidavit, is required to be done by any person, the act may, subject to prescribed conditions or in special cases with the consent of Government, be done, in lieu of by that person himself, by a duly authorised agent, being either a legal practitioner or a person registered in the prescribed manner as a trade marks agent.

Fees.

77. There shall be paid in respect of applications and registration and other matters under this Act such fees as may be prescribed by Government.

Government to be bound.

78. The provisions of this Act shall be binding on Government.

Power to make reciprocal arrangements with other Governments.

79. If at any time after the expiry of six months from the commencement of this section it is made to appear to Government that any Government outside Cochin State has made satisfactory provision for the protection within its territories of trade marks in respect of which an application for registration has been made in Cochin State, Government may, by notification in the Cochin Government Gazette, make provision with regard to trade marks in respect of which an application for registration has been made within the territories of that Government to enable any person who has applied within such territories for registration of a trade mark or his legal representative or assignee to obtain registration of the trade mark in Cochin State under this Act on his making an application for registration in Cochin State within such period as may be fixed in this behalf by the notification as if an application for registration under this Act had been made in respect of that trade mark at the date at which the application for registration was made within the territories of that Government.

LIBRARY ARCHIVES Kerala Legislative Assembly

80. (1) Government may, subject to the condition of previous publication by notification in the Cochin Government Gazette, make rules to carry out the purposes of this Act. **Power of Government to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the classification of goods for the purpose of the registration of trade marks, and empower the Registrar to amend the register so far as may be necessary for the purpose of adapting the entries therein to any amended or substituted classification which may be prescribed;

(*b*) require the making of duplicates of trade marks and other documents connected therewith;

(*c*) provide for securing and regulating the publication, sale or distribution of copies of trade marks and other documents connected therewith;

(*d*) prescribe additional matters to be entered in the register;

(*e*) prescribe the conditions and restrictions subject to which the register may be inspected;

(*f*) prescribe the form of certificates of registration;

(*g*) prescribe the conditions under which a trade mark removed from the register may be restored under sub-section (3) of section 18;

(*h*) prescribe the further documents, information or evidence to accompany an application under sub-section (1) of section 41;

(*i*) regulate the awarding of costs by the Registrar under section 66;

(*j*) prescribe the conditions subject to which an agent referred to in section 76 may act;

(*k*) prescribe the fees to be paid under this Act;

LIBRARY ARCHIVES Kerala Legislative Assembly

(*l*) prescribe the manner in which, in proceedings under this Act before Government or the Registrar, application shall be made, notices given and matters advertised;

(*m*) prescribe times or periods required by this Act to be prescribed ;

(*n*) provide, generally, for regulating the business of the Trade Marks Registry and for regulating all things by this Act placed under the direction or control of Government or the Registrar.

Power to Government to make provision for applications for registration before the coming into force of the remaining provisions of Act.

81. Government may, by notification in the Cochin Government Gazette, provide such procedure as it considers expedient to enable intending applicants to deposit trade marks at the Patent Office before the coming into force of the remaining provisions of this Act:

Provided that the deposit of a trade mark under this section shall not affect any right, existing or accruing, in the trade mark.

APPENDIX VI

The Cochin Registration Act (Amendment) Bill

Preamble.—Whereas it is expedient further to amend the Cochin Registration Act, V of 1084, it is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called "The Cochin Registration (Amendment) Act.....of 1119" and it shall come into force at once.

2. *Amendment of section 15.*—In clause (c) of section 15 of the Cochin Registration Act V of 1084, hereinafter referred to as the Act, the words "or, in case such property is situate in several districts by such number of true copies of the map or plan as are equal to the number of such districts" shall be deleted.

3. *Substitution of section 57.*—For section 57 of the Act, the following shall be substituted.—

"57. *Procedure on registering documents relating to land.*—On registering any non-testamentary document relating to immoveable property not wholly situate in his district, the Registrar shall make a memorandum thereof and of the endorsement and certificate (if any) thereon and send the same to every other Registrar in whose district any part of such property is situate, with extracts showing the description of properties or schedules as contained in the document regarding properties in the respective districts.

Such Registrar on receiving any such memorandum shall file it in his Book No. I.

4. *Amendment of section 59.*—In section 59 of the Act, the following shall be inserted as a new clause after the clause ending with the word and figure "section 56".

"prescribing the form in which memoranda to be transmitted under section 57 shall be prepared".

APENDIX VII

THE COCHIN COURT FEES ACT (AMENDMENT) BILL

Preamble.—Whereas it is expedient further to amend the Cochin Court Fees Act, II of 1080, it is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Court Fees (Amendment) Act, of 111 and shall come into force at once.

LIBRARY ARCHIVES Kerala Legislative Assembly